IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16937 of 2004

Between:

1. K.Sai Niranjan Kumar, S/o Naganna,
   Aged 17 years, being minor rep. by father and
   natural guardian Sri K.Naganna,
   R/o Mylavaram,
   Krishna District
2. K.Anil Kumar, S/o Satyanarayana,
   Aged 18 yrs, R/o 11th Lane, Nehru Nagar,
   Guntur, Guntur District
3. A.Anjani Nandan, S/o Subba Rao,
   Aged 17 years, being minor rep. by father and natural guardian
   Sri A.Subba Rao, S/o Tsundur Village & Mandal,
   Guntur District

....PETITIONERS

AND

1. The Convenor, EAMCET-2004, J.N.T.University, Hyderabad

2. The Commissioner, Tribal Welfare Department,
   Andhra Pradesh, Hyderabad

3. The District Collector, Krishna, Machilipatnam

4 The District Collector, Guntur, Guntur District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not granting admissions in the

branches allotted to the petitioners in the counselling for EAMCET-2004 held on 21-08-2004 under the pretext of referring the petitioners caste certificates to the 2nd respondent is arbitrary, illegal, one without jurisdiction and contrary to the provisions of the A.P.(SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 made thereunder and consequently direct the 1st respondent to grant admissions to the petitioners into the branches allotted to petitioners in the EAMCET-2004 counselling held on 21-08-2004.

Counsel for the Petitioners :MR.B.SOMASEKHAR

Counsel for the Respondent No1: MR.S.SATYANARAYANA PRASAD

Counsel for the Respondents 2 to 4: GOVERNMENT PLEADER FOR TRIBAL WELFARE

The Court, at the stage of admission, made the following :

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

O R D E R:

The petitioners, who are three in number, obtained community, nativity and date of birth certificates from the Mandal Revenue Officer, who certified that they belong to 'Kammara' caste, which according to the petitioners is notified as schedule tribe. It is stated that on obtaining such certificates, they appeared for the EAMCET-2004 examination and secured ranks No.34276, 42210 and 35321 and participated in the counselling, held on 21.08.2004. The Convenor though provisionally allotted E.C.E. branch to the 1st petitioner in Lakkireddi Balireddy College of Engineering, Mylavaram, Krishna District; C.S.E.(Computer Science) to the 3rd petitioner in Geetham college, Visakhapatnam, and M.E.C. branch to the 2nd petitioner in JNTU College, Ananthapur, the said colleges have not admitted them on the ground that the caste certificates issued by the authorities have to be verified, and accordingly, referred the matter to the 2nd respondent-Commissioner, Tribal Welfare Department, for verification of the caste certificates, who in turn, issued a memo to the petitioners stating that the genuineness of the same is doubtful and accordingly

called upon the petitioners to appear before him along with the elder member of the family. Questioning the memo issued by the 2nd respondent, dated 21.08.2004, the present writ petition is filed.

Learned counsel for the petitioners contends that referring the matter to the 2nd respondent is unsustainable, and if at all there is any doubt about the certificates, the same has to be referred to the District Collector of the area, who is the competent authority to conduct enquiry as contemplated under the A.P. (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997, and therefore seeks *Writ of Mandamus*l directing the action of the respondents as illegal, and consequently to direct the 1st respondent to admit the petitioners in their respective branches allotted to them.

Admittedly, the certificates, which were issued by the Mandal Revenue Officer certifying that the petitioners belong to 'Kammara' caste, is notified as scheduled tribe. However, he has no power or jurisdiction to issue such certificates to the persons residing in the non-scheduled areas of the State. According to Annexure-I of the said Rules, the power is conferred to an officer, who is not below the rank of Revenue Divisional Officer/Sub-Collector/Assistant District Collector, to issue such certificates certifying that the persons belong to the scheduled tribe in non-scheduled areas of the state. In view of the same, no *Mandamus*, as such, can be issued in favour of the petitioners so as to grant admission to the respective branches, allotted to them by the convenor.

Taking the totality of the circumstances into account, it is directed that the 2nd respondent, to whom the matter is referred, shall refer the same to the District Collector for conducting necessary enquiry as per Rules and for passing appropriate orders. On such reference made, it is for the Collector to pass orders under Rule 19,

for provisional admission of the petitioners in the respective colleges, if any.

Accordingly, the writ petition is disposed of. No costs.

_____

A. GOPAL REDDY, J

September 21st , 2004
ts

To

1. The Convenor, EAMCET-2004, J.N.T.University, Hyderabad
2. The Commissioner, Tribal Welfare Department, Andhra Pradesh, Hyderabad
3. The District Collector, Krishna, Machilipatnam
4 The District Collector, Guntur, Guntur District
5. 2CCs to the Government Pleader for Tribal Welfare, High Court Buildings, High Court of A.P., Hyderabad (O.U.T)
6. 2CD copies

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16937 of 2004

21st SEPTEMBER, 2004